

Appl. No. : 10/730,377
Filed : December 8, 2003

REMARKS

With this amendment, Claims 2-25 are pending in the present application. Applicant has cancelled Claim 1 and added Claims 2 through 25. In view of these amendments and the following remarks, Applicant respectfully submits that all of the claims of the above-identified application are in condition for immediate allowance.

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected Claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner states that Claim 1 is unclear as written. According to the Examiner, the phrase "at least one thruster provided on the first side of the layer; at least one chamber provided on the second side of the layer adapted to receive a corresponding one of the at least one thruster; . . ." does not clearly indicate whether the chamber and the thruster are formed on the layer or are provided by another layer adjacent to the layer. Although Applicant does not agree with the Examiner's rejection, Applicant has cancelled Claim 1 without prejudice, as indicated above, and respectfully requests that this rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 102

The Examiner has rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,834,046 to Fowler, U.S. Patent No. 4,798,009 to Colonel et al., U.S. Patent No. 4,999,931 to Vermeulen, U.S. Patent No. 5,595,003 to Snow, and European Patent Application No. 578,618 to Menghi ("Cited References").

The Examiner asserts that each of the Cited References discloses all the limitations of Claim 1 including a sole formed of a resilient layer of stretchable material having a first side and a second side, at least one thruster provided on the first side of the layer, at least one chamber provided on the second side of the layer and adapted to receive a corresponding one of the at least one thruster, and a wall at least partially surrounding the resilient layer to prevent horizontal displacement of the layer when the thruster is compressed against the layer into the chamber.

Applicant respectfully disagrees with the Examiner's assertion. None of the Cited References teaches or suggests the unique combination of features claimed in Claim 1. Claim 1 requires, *inter alia*, a wall that at least partially surrounds the resilient layer. This wall is

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designated to assist with cycling efficiency and energy storage by minimizing horizontal displacement of the resilient layer during natural foot movement. For example, runners generally engage in a forward scuffing action when their foot strikes the ground. This action may cause horizontal displacement of the resilient layer and shearing on the thrustors. As a result of this shearing force, the linear alignment between the thrustors and the chambers is compromised generating cycling inefficiencies and a loss in energy storage. By incorporating walls adapted to receive the resilient layer along the chamber layer, as embodied in one aspect of the claimed invention, the risk of horizontal displacement of the resilient layer is minimized during natural foot movement. This wall in combination with the other unique features claimed in Claim 1 is simply not disclosed or taught by the Cited References. Furthermore, none of the Cited References disclose or teach the use of walls for receiving resilient layers to improve energy storage by minimizing the horizontal movement and displacement of those layers.

Although Applicant respectfully disagrees with the Examiner's assertion, Applicant has cancelled Claim 1 without prejudice, as indicated above, and reserves the right to prosecute this claim at a later date. Thus, Applicant respectfully requests that this rejection be withdrawn.

New Claims

Applicant has added Claims 2-25, which are now pending in the present application. None of the Cited References disclose or teach the inventive features claimed in Claims 2-25. For example, none of the Cited References teaches or suggests a sole construction comprising a plurality of stretchable layers each having a first side and a second side, a plurality of actuators each being positioned on the first side of a corresponding stretchable layer, a plurality of chambers each being positioned on the second side of a corresponding stretchable layer, and a plurality of perimeter walls each surrounding a corresponding stretchable layer to prevent horizontal displacement of the layer when the actuator is compressed against the layer into a corresponding chamber. In addition, none of the Cited References teaches or suggests a sole construction comprising a resilient layer of stretchable material having a first side and a second side, at least one actuator positioned on the first side of the resilient layer, and a chamber layer defining a chamber adapted to receive the at least one actuator therein, the chamber layer having a perimeter wall receiving and at least partially surrounding the resilient layer, wherein the perimeter wall minimizes horizontal displacement of the resilient layer when the actuator is

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compressed against the resilient layer into the chamber of the chamber layer. Thus, Applicant respectfully submits that Claims 2-25 are in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that this application, as amended, is in condition for allowance and such action is respectfully requested. If any issues remain or require further clarification the Examiner is respectfully requested to call Applicant's counsel at the number indicated below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Brian C. Leubitz
Registration No. 54,264
Attorney of Record
One Sansome Street, Suite 3500
San Francisco, CA 94104
(415) 954-4114

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